

REMARKS

Applicant asks that all claims be allowed in view of the following remarks and the remarks included in the response filed on March 7, 2005 also in response to final office action of December 7, 2004. Claims 1-49 are pending, of which claims 1 and 29 are independent claims.

Specifically, applicant now submits this supplemental response to the final office action of December 7, 2004. Applicant filed a response on March 7, 2005, which was also in response to final office action of December 7, 2004, and filed a Notice of Appeal on April 7, 2005. An Office action was mailed April 12, 2005 indicating that applicant's reply to the 37 C.F.R. § 1.105 requirement for information was incomplete.

**Requirement for Information**

The Office action of December 7, 2004 required submission of information under 37 C.F.R. § 1.105 and noted, *inter alia*, particular interest is "information related to the field of endeavor or business practices used by applicant's professional business ventures [and] where the claimed invention is an improvement, identification of what is being improved and identification of any use of the claimed invention known to any of the inventors at the time the application was filed." See Office action mailed December 7, 2004 at page 3, line 18 to page 4, line 1. See e.g., Office action mailed December 7, 2004 at pages 2-4. As noted in the Office action, the present application is assigned to America Online, Inc. (AOL). Applicant understands the request for information to be a request for information about AOL's CD packaging practices relative to the claimed subject matter of the present application.

Prior to the filing date of the present application, AOL mailed a compact disk case that included a viewing window that exposed a portion that is less than all of the surface of a disk inserted into the compact disk case, as recited in claim 1 of the present application. However, applicant's representative is not aware of any such mailings more than one year prior to the filing of the present application. Moreover, attempting to confirm their understanding that no such mailings had occurred more than one year prior to the filing date, applicant's representative performed an investigation contemporaneous with filing the present application. The results of that investigation did not reveal (1) any mailings of the claimed compact disk case or (2) any

activities by AOL of the claimed subject matter more than one year prior to the filing date of the present application. To the extent that Examiner continues to believe that AOL has engaged in this activity prior to one year of the filing date of the present application, the Examiner is requested to assist applicant by providing evidence supporting such a belief. As previously stated, information made known to applicant's representative during the investigation conducted contemporaneous with the application filing indicated that no activity constituting the claimed subject matter took place by AOL more than one year prior to the filing date of the present application.

A declaration of inventor Ms. Lisa Riofrio (formerly Lisa Whitmore) is provided with this supplemental response. The declaration indicates that she also has no personal knowledge of mailing by AOL of the claimed compact disk case more than one year prior to the filing date of the present application.

In addition, applicant's representative attempted obtain a declaration from the first-named inventor Ms. Kristin Carman. Ms. Carman is no longer an employee of AOL, and applicant's representative was unable to contact Ms. Carman. More particularly, applicant's representative attempted to contact Ms. Carman, using Ms. Carman's e-mail message account, on at least five occasions between April 19, 2005 and May 10, 2005. No response was received Ms. Carman to any of these attempts. In addition, AOL Legal department personnel could not locate Ms. Carman's current address or a working telephone number for Ms. Carman.

Applicant's representative asserts that applicant has provided the required information to the extent that applicant is able to readily do so. Applicant's representative, therefore, asserts that this constitutes a complete response to the requirement for information.

Applicant asserts that this information is the best information available to applicant to satisfy this request for information and, as such, constitutes a complete reply to the information request.

## **Conclusion**

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be

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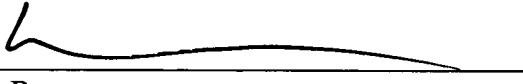
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exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

This supplemental reply is being filed after a Notice of Appeal was filed on April 7, 2005. As such, no fee is believed due. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: June 7, 2005

  
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